IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.2025 OF 1991

Mahadev Changonda Patil & ors. Petitioners
Vs.
State of Maharashtra & ors. Respondents

Mr.S.V.Sadavarte for petitioners.
Mr.V.S.Gokhale, AGP for Resp.Nos.1 to 4.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.

April 05, 2006.

P.C.

1. The petitioners have impugned the acquisition sought to be made of the land in Survey No.512/3 (Part) admeasuring about 2 H. and 08 Ares. By the notice dated 11/10/1983 issued under Section 4(1) of the Land Acquisition Act the Land Acquisition Officer sought to acquire 1 H. 21 Ares land from Survey No.512/3. The petitioners' father submitted his representation on 16/2/1984 pointing out that his total holding of agricultural land was less than 3 H. and 23 Ares and if 1 H. 21 Ares land would be acquired from his holding, he would be virtually rendered landless. It appears that this plea was not conceded and notice under Section 9 of the Land Acquisition Act came to be issued on 15/6/1987. By the communication dated 17/12/1990 the petitioners' father was informed that his land was acquired and

award was passed and accordingly notice under Section 12(2) to collect the award amount was issued to him. The petitioners again submitted a fresh representation on 10/1/1991 and requested the Land Acquisition officer to delete the land from acquisition proceedings and finally they have approached this Court.

2. The District Resettlement Officer at Kolhapur has filed affidavit-in-reply and has stated that the notification under Section 11 of the Maharashtra Resettlement of Project Displaced Persons Act, 1976 was issued on 2/11/1978 and at that time the agricultural holding of the petitioners' father Shri Chandgonda Babgonda Patil was 6 H. and 11 Ares and, therefore, 1 H. and 21 Ares land was acquired. When we called upon the learned AGP to place before us the concerned documents in support of the holding of 6 H. and 11 Ares, it is now contended that the agricultural land admeasuring 3 H. and 11 Ares located in Survey No.486/6 was not in possession of the petitioners' father and it was already regranted. If that be so we will have to accept the petitioners' contention that their father did not have any other land except the land admeasuring 2 H. and 08 Ares

located in Survey No.512/3 and by the acquisition made he would be rendered landless in as much as he would be left with less than 1 H. of land which is much below the permitted holding under the Act.

3. This petition, therefore, succeeds and the same is hereby allowed by making Rule absolute in terms of prayer clause (b) but without any order as to costs.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)